

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
MINUTES
July 7, 2008**

1. OPENING OF THE MEETING

The meeting was called to order at approximately 8:00 p.m.

Open Public Meetings Law Statement:

This meeting, which conforms with the Open Public Meetings Law, Chapter 231, Public Laws of 1975, is a Regular Meeting of the Westwood Zoning Board.

Notices have been filed with our local official newspapers and posted on the municipal bulletin board.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL:

PRESENT: William Martin, Chairman
Raymond Arroyo
Dan Koch
Joseph Frasco, Vice-Chairman
William Vietheer
Guy Hartman
Eric Oakes
Christopher Owens (Alt #1)
Michael Bieri (Alt. #2)

ALSO PRESENT: David Rutherford, Esq., Board Attorney
Louis Raimondi, Maser Consulting, PA
Board Engineer
Steve Lydon, Burgis Associates
Borough Planner

ABSENT: None

4. MINUTES - Minutes of 4/7/08 were approved on motion of William Vietheer, seconded by Christopher Owens and carried unanimously on roll call vote. The Minutes of 5/5/08, 6/2/08 & 6/9/08 carried to the next meeting;

5. CORRESPONDENCE: As listed on Agenda and read:

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1. Letter dated June 17, 2008 from Maser Consulting RE: Vietheer application;
 2. Letter dated June 17, 2008 from Maser Consulting RE: Pronovost application;
 3. Letter dated June 10, 2008 from Community Housing and Planning RE: Paragon Federal Credit Union;
 4. Memorandum dated June 12, 2008 from Burgis RE: Vietheer application;
 5. Memorandum dated June 13, 2008 from Burgis RE: Pronovost application;
 6. Letters dated June 3, June 5 and June 9, 2008 from Sokol, Behot and Fiorenzo RE: Paragon Federal Credit Union;
 7. Letter dated June 23, 2008 from Gibbons RE: JP Morgan Chase - withdrawal;
 8. Letter dated June 23, 2008 from Petrina applicant;
 9. Letter dated June 16, 2008 from Bermudez applicants;
 10. FAX dated June 24, 2008 from David Rutherford, Esq. RE: Paragon Federal Credit Union special meeting date;
- 6. VOUCHERS:** A motion to approve vouchers totaling \$11,617.50 was made by Mr. Vietheer and seconded by Mr. Frasco and carried unanimously on roll call vote.

7. RESOLUTIONS:

1. **Conrad, 25 Park Avenue, Block 912, Lot 2 - Appeal of Zoning Officer's Decision** - A motion for approval of the Resolution was made by Mr. Arroyo and seconded by Mr. Koch. There were no further questions, comments or discussions. On roll call vote, all members voted yes. Mr. Martin and Mr. Bieri were eligible to vote.
2. **Philip & Eve Pinto, 51 Roosevelt Avenue, Block 1510, Lot 1 (Amendment)**- A motion for approval of the Resolution was

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made by Mr. Arroyo and seconded by Mr. Koch. There were no further questions, comments or discussions. On roll call vote, all members voted yes. Mr. Martin and Mr. Bieri were eligible to vote.

8. PENDING NEW BUSINESS: None

9. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETATIONS:

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

The Board Professionals were sworn in

1. Park/Brian/GV Investment and Consulting - Proposed Subway - Carried to 9/8/08;

2. Paragon Federal Credit Union, Washington Avenue, Block 805, Lots 2 & 3 - Scheduled for a Special Meeting on 7/14/08;

3. JP Morgan Chase - Preliminary and final Site Plan and Variance Application - Withdrawn without prejudice;

4. Phil Petrina, 118 3rd Avenue - Proposed Sunroom addition - Carried to 8/4/08 at request of the applicant without having to notice;

5. Dennehy, 40 Lester Avenue - Section 68 Appeal - Addition/Front Porch - Addition carried to 8/4/08 - **Hearing on Appeal** - Walter K. Schreyer represented the applicant. Donna Sanoudis, from 22 Avondale Lane, Aberdeen, NJ, Executrix, of the Estate of Paraskevi Anestakis was sworn in. She submitted a certification that the house was purchased by her parents Cornelio and Paraskevi Anestakis on 11/1/63, and the structure is the same as when it was purchased according to the dated closing statement attached. The rental of the apartment was \$75. and the garage \$10. at that time. The rental apartment was in existence when her parents purchased the property in 1963. There have been no changes to the house since then. Mr. Schreyer had no further questions of his witness. There were no questions from the Board.

The next witness was Barbara Tatem, residing at 47 Lester Avenue, directly across the street, which has been owned by her since 1985, but she lived there since 1948. Her mother and father and grandparents owned it. From that time until the

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present the Dennehy house has always been a two family. She was friends with the Anastakis Family since 1963. She rented a garage from them. Since she lived across the street, it was always a two family house. She was in the apartment. There have been no additions or expansions to that apartment to the best of her knowledge. Mr. Schreyer had no further questions. Mr. Martin questioned the witness. There were no interested parties with questions for the witness.

Chris Blake, Architect was sworn in and showed photos of the premises and apartment taken by Mr. Dennehy, which he described. The apartment photos showed the rooms, appliances, kitchen, windows, and outside photos. He was physically at the apartment. Mr. Martin asked if he noted the date on the toilet, but he did not. Mr. Martin noted that there was a step up to the bathroom, indicating this was done later. Mr. Blake acknowledged it could have been done later. Also, he asked if there was any attempt to find the old connecting doorway, but Mr. Blake was not able to.

Mr. Schreyer summed up by stating there was no indications that this was a later addition, and that the witness testified based on an inspection of the dwelling that this was part of the original construction. This is a pre-existing use prior to the ordinance and he would press the Board for a Resolution for a Section 68 Certificate.

Mr. Martin noted that the purchase bought the house from his client. Mr. Schreyer agreed, stating it was sold to him as a two family house. Upon being questioned about the tenant, Mr. Dennehy stated the tenant is quiet and does not go out much. She has a mental handicap. The tenant was present when the photos were taken.

Mr. Owens commented he recognized the sink from his parent's home, and it does look like an addition, but it could have happened prior to 1970. Mr. Arroyo did not think it was an addition to the structure. The appearance is consistent with the photos. The plan sketch is corroborated by the tax records. It is the same footprint. He feels like as far as the structure, it was always there. Mr. Martin was concerned that the inside of the structure was not always as it is now. Discussion continued. Mr. Martin commented it was an original part of the house, but not as an apartment. The tax records indicate a

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single family house at one point, two family in 1968, then a one family again. There were no further discussions.

Mr. Martin called for a motion Mr. Frasco asked if it would help to check the date on the toilet. Mr. Martin responded it would serve the purpose of telling the date it was actually done. Mr. Hartman commented the Board did not hear the names of any tenants or tenant history. The Board asked the applicant if they wanted to carry and provide more evidence or proceed to a vote. The applicant said he could provide a photo of the toilet and certain mail, but he would like to move on. Mr. Martin asked the Board Members if they would like to see more information. Mr. Frasco wanted to see the toilet date. Mr. Arroyo asked if they had the deed of the property. Mr. Martin read from the tax record that in 1958 it said open porch, single family house. Mr. Martin suggested the applicant bring such additional information as any permits, photos of dates of all the toilet lids in the house, check on the dates in the tanks, check access to the crawl space, and deferred to the Board. The consensus was for the applicant to bring more evidence. Mr. Blake is to provide information on the construction.

The matter was to be carried. The architect was away on 8/4/08, so the matter was carried to the 9/8/08 meeting, with no further notice required, and a time extension granted.

6. Uniq Surfaces, 701 Broadway, Block 701, Lot 7 - Variance - Carried to 7/7/08. Applicant to renote and republish.

7. F&A Woodland Associates, 309 Kinderkamack Road - Use Variance - Carried to 9/8/08 at request of applicant's attorney, due to completeness issues;

8. Bermudez, 32 Grove Street - Replacement of Porch - Carried to 8/4/08;

9. Puentes, 60 Wheeler Avenue, Block 205, Lot 1 - Vincent Cioffi, Architect was sworn in, qualified and accepted. He testified Mr. Puentes owns a two family house on a corner lot, and he wants to put an addition on the house, creating a larger unit by putting a two-story addition on becoming solely part of the first floor unit. Presently Mr. Puentes resides in the first floor unit, and the extension is for his use. He is about

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to be married and wants to make his unit more livable. The second floor unit is occupied by his son and daughter-in-law and will remain unchanged. Presently the first floor is two bedrooms. One bedroom occupies what used to be a dining room. They are maintaining two bedrooms, but creating a more livable area, adding a living room, dining room and garage.

Mr. Raimondi commented he has to decide which is the front and which is the rear. If fronting on Wheeler, the rear yard is only 17.2. Mr. Martin commented the ordinance defines that, they do not have a choice. Mr. Lydon said the frontage with the shortest dimension is the front yard and the opposite is the rear. Mr. Raimondi pointed out Mr. Puentes calls the front yard the one on Wheeler. Mr. Cioffi said the zoning schedule says Newark Avenue is the front. It could be relabeled. Mr. Raimondi asked if the Board wants to clarify this and what the address is. Mr. Lydon also felt this was important.

Mr. Raimondi questioned whether the addition would interfere with any other properties. Mr. Cioffi prepared a photo montage, which he offered as an exhibit, and said it could be used to answer that question.

Mr. Martin commented he must first legitimize the two-family use and suggested he might want to retain an attorney and engage the services of a professional planner regarding the Section 68 Certificate and the variance he is seeking. Mr. Puentes said it was always rented as a two-family house. Mr. Martin noted there was a previous substantial application and there should be testimony from that time. Mr. Lydon had reviewed the file. Mr. Martin said they need to confirm the legal status of the property first. Mr. Rutherford advised the applicant did notice for a Section 68 Certificate. Mr. Martin said they needed to provide tax records, etc., and there was a checklist for same, which applicant should request from the Zoning Board Office.

The matter was carried to the 8/4/08 meeting with no further notice required.

10. Falcone, 11 Fifth Avenue, Block 914, Lot 2 - Addition
William Martin recused himself and stepped down from the dais, due to his office's close proximity to the subject premises. Vice-Chairman Frasco chaired the meeting for this application.

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Mr. Lydon said his parents own property at 15 Sixth Avenue, within 200' of the subject property, and questioned whether he should recuse himself, but Mr. Rutherford advised he is not acting in a decision making capacity, and the applicants did not have an objection to him remaining.

The applicants, Joseph & Nicole Falcone, and their architect, John Tudor, of Tudor Architects, were sworn in. Mr. Tudor described his plan dated 4/30/08, revised to 6/14/08. Applicants sought to convert their two-bedroom, Cape Cod style home to a three-bedroom home to meet their family's needs, by adding a small dormer to the rear of their home. The maximum height of the building would not change. They would use the same materials to wrap the proposed second floor addition. The building coverage would only increase slightly because one of the second floor bedrooms would have a 2' cantilever. The lot coverage would not change because the proposed bedroom cantilever will be over an existing deck.

Mr. Lydon prepared a report dated 5/28/08. The plans were revised accordingly, but Mr. Lydon did not yet review the revised building coverage. Mr. Tudor tried to explain, but Mr. Lydon referred to the definition for building coverage in the ordinance, which he said clearly included decks in building coverage. The coverage proposed was 26.4%, and 22% is allowed.

Mr. Raimondi prepared a report dated 5/21/08. There would also be side yard variances required. The zoning schedule should be quantified as to the number of parking spaces required and available. Also, a survey by P&M Surveying, dated 3/28/08, was submitted.

Mrs. Falcone submitted eight photos, which she described. Mr. Lydon asked if other style homes on the block have done this addition. Mrs. Falcone said theirs is practically the last one to do so. The property has an irregular but nearly rectangular lot configuration. Two decks were constructed in the rear yard. Mr. Lydon commented the number of parking spaces needs to be addressed. Mr. Frasco asked them to give the reasons for the variance. Mr. Lydon referred to his memo regard the criteria for C1 and C2 variances. The applicants stated from the front you would never know there was an addition and stated there would be no detriment. A discussion ensued.

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A motion for approval was made by Mr. Arroyo and seconded by Mr. Koch. On roll call vote, all members voted yes. Mr. Martin was recused; Mr. Bieri was not needed to vote.

Mr. Martin returned to the dais.

11. William Vietheer, 36 Newark Avenue, Block 210, Lot 10, Install Gazebo - Mr. Rutherford advised that the law states that persons serving the Zoning Board do not give up their rights to come before the Board. Mr. Vietheer should conduct himself like an applicant would, and the Board should hear the application like it normally would. William Vietheer was sworn in and testified he and his wife would like to put in a gazebo by the pool. Mr. Vietheer submitted photos, describing them. A discussion ensued. Mr. Lydon reported three variances would be required. Mr. Arroyo noted there is not a significant intrusion over what is there now. Mr. Raimondi submitted a report dated 6/17/08 requesting signed and sealed plans by a licensed engineer. Mr. Raimondi commented he would waive the requirements for a topographic survey and site grades in view of the minimal intrusion to the property, as well as the fact that the site is relatively flat.

Mr. Lydon submitted a report dated 6/12/08. Unaltered and altered surveys were submitted. The variances were for maximum building coverage and maximum impervious coverage. Testimony was offered in connection with the proofs.

A motion for approval on the condition that signed and sealed plans by a licensed engineer be submitted, was made by Mr. Koch and seconded by Mr. Owens. There were no further questions, comments or discussion. On roll call vote, all members voted yes. Mr. Bieri was not needed to vote.

Mr. Vietheer returned to the dais.

12. Pronovost, 497 Fourth Ave, Block 915, Lot 5 - Addition & second floor alteration - Mr. Martin recused himself due to his proximity to the subject property and stepped down from the dais. Mrs. Pronovost was sworn in and testified. The applicant proposed to remove the existing second level of the dwelling and construct a replacement second level.

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Mr. Raimondi submitted a report dated 6/17/08 and stated that a signed and sealed survey by a licensed surveyor was required. The site plan refers to a survey by Troast Engineering dated 10/24/07. Applicant said she requested a copy of same. The adjoining structures should be shown. The applicant noted a new set of plans, revised to 6/16/08, addressing same were submitted. Mr. Raimondi had not yet reviewed them. He would wait for his further review to comment further.

Mr. Lydon reviewed his report dated 6/13/08. No new variances were being requested; however, existing variances included front yard set back and side yard set back for one side.

The Board discussed the application. A motion for approval was on condition that applicant submit a signed and sealed survey showing the retaining wall and correct height was made by Mr. Vietheer and seconded by Mr. Arroyo. On roll call vote, all members voted yes. Mr. Martin was recused and Mr. Bieri, Alt #2, was not needed to vote. The Board advised the applicant as to the appeal period.

Mr. Martin returned to the dais.

11. DISCUSSIONS:

1. Procedural Rules - The Board complimented Mr. Rutherford on the preparation of the Procedural Rules. There were no further questions, comments or discussions. A motion to approve was made by Mr. Arroyo and seconded by Mr. Vietheer. On roll call vote, all members voted yes. Mr. Martin asked that the Procedural Rules be distributed to the Council Liaison, Borough Clerk, Planning Board, Zoning Officer, and Sylvia Kokowski/Zoning Administration.

2. Annual Report - There were no further questions, comments or discussions. A motion to approve was made by Mr. Arroyo and seconded by Mr. Vietheer. On roll call vote, all members voted yes. Mr. Martin asked that the Annual Report be distributed to the Planning Board, Mayor and Council, Borough Clerk, Zoning Officer, and Sylvia Kokowski, Zoning Administration.

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12. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approx. 11:20 p.m.

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Planning Board Secretary